

## **MINUTES**

### **MONTANA SENATE 59th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON EDUCATION AND CULTURAL RESOURCES**

**Call to Order:** By **CHAIRMAN DON RYAN**, on February 9, 2005 at 3:10 A.M., in Room 317-A Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Don Ryan, Chairman (D)  
Sen. Gregory D. Barkus (R)  
Sen. Jerry W. Black (R)  
Sen. Kim Gillan (D)  
Sen. Bob Hawks (D)  
Sen. Sam Kitzenberg (R)  
Sen. Jesse Laslovich (D)  
Sen. Jeff Mangan (D)  
Sen. Dan McGee (R)  
Sen. Bob Story Jr. (R)

**Members Excused:** Sen. Jim Elliott (D)

**Members Absent:** None.

**Staff Present:** Connie Erickson, Legislative Branch  
Lois O'Connor, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: SB 359, 2/3/2005  
Executive Action: SB 177, SJ 2

**{Tape: 1; Side: A; Time Counter: 0.2}**

**SEN. DON RYAN (D), SB 10, GREAT FALLS,** said that a meeting was called to discuss what was going on among all of the school funding issues. The result was to establish a Joint Select Subcommittee--two Senators, one from each party, and two Representatives, one from each party--to discuss and work on education funding. The new subcommittee does not preclude the full Senate and House Education Committees from having a voice in what happens. The subcommittee needs input from Committee members and needs to be in harmony with all people involved. The subcommittee should also relieve staff workloads. **SEN. RYAN** added that if the end product is something that everyone wants to move forward, there could be an agreement to suspend House and Senate rules to introduce a bill that has been well thought out.

**{Tape: 1; Side: A; Time Counter: 5.9}**

#### **HEARING ON SB 359**

##### **Opening Statement by Sponsor:**

**SEN. BOB STORY (R), SD 30,** said that SB 359 was brought forth at the request of OPI. It does two things: (1) defines when a school district is eligible to receive ANB funding for students that it is providing services to and (2) divides days into smaller segments (i.e., aggregate hours).

**{Tape: 1; Side: A; Time Counter: 8.1}**

##### **Proponents' Testimony:**

**Madalyn Quinlan, OPI,** said that the definition of aggregate hours contained in SB 359 coincides with the Board of Public Education's definition of aggregate hours. Section 2 addresses paying tuition for students under state placement. Currently, if a student turns 18 years of age during the course of a school year, that student's residency changes under Montana's residency laws. Section 2 clarifies that for the duration of the school year, tuition could be paid for the full year.

**Ms. Quinlan** said that Section 3 addresses aggregate hours needed to generate full-time and half-time ANB. If a student is enrolled in school for less than 180 hours, they do not generate ANB funding. If students attend school for up to two hours a day, they generate half-time funding. If they attend more than two hours in a day, they generate full-time funding. SB 359 changes the language to say that if students attend school for more than

2 hours, they will generate one-half time ANB and 4 hours or more, full-time ANB.

**Ms. Quinlan** added that OPI receive many questions about which students qualify for ANB funding and how it handles enrollment. She provided an overview of a flowchart of student enrollment that would generate ANB funding and a set of proposed amendments to address offsite instructional settings to bring SB 359 in sync with SB 224 introduced by **SEN. LASLOVICH**.

[EXHIBIT\(eds32a01\)](#)

[EXHIBIT\(eds32a02\)](#)

*{Tape: 1; Side: A; Time Counter: 16.8}*

**Ms. Quinlan** also provided a chart indicating which students that districts can count in their ANB count or their allotments thereby generating ANB funding; information on the definition of a school year and a school week; and a list of accreditation standards related to a basic education program.

[EXHIBIT\(eds32a03\)](#)

[EXHIBIT\(eds32a04\)](#)

[EXHIBIT\(eds32a05\)](#)

**Ms. Quinlan** requested that the Committee form a policy definition of what it means to be enrolled in a school district, what the rights and responsibilities of the student are in terms of enrollment, and what are the rights and responsibilities of the district in terms of enrolling a student and providing services. She added that SB 359 was designed so that a district could not automatically receive ANB funding for students that they are not serving. However, if the district is required to serve a student, it ensures that the district is provided the funding.

*{Tape: 1; Side: A; Time Counter: 21.7}*

**Amy Carlson, Office of Budget and Program Planning (OBPP)**, said that SB 359 improves the mechanism for funding ANB and gives a more appropriate allocation for the amount of classroom time.

**Erik Burke, MEA-MFT**, said that SB 359 adds clarity to the definitions and the current calculation of ANB. It will provide consistent and sensible rules as it relates to distance education. He also felt that the Committee develop a common policy.

**{Tape: 1; Side: A; Time Counter: 23.7}**

**Lance Melton, MT School Boards Association (MTSBA)**, supported SB 359 with MTSBA's suggested redraft of Section 3(10)(a).

**EXHIBIT(eds32a06)**

**Mr. Melton** said that SB 359 provides that in order to provide offsite learning, districts could do so only if the district offers its full educational services to children. However, the children would have to be able to come to the school. He feared that the language "able to" could be construed to say that if a district offered a science course to a home school child, for example, but the parents will not let the child come to school for curricular offerings, it could prevent the district from collecting ANB. The language appears to read as not only does the district have to offer a program but the child has to be able to access it. MTSBA would also like the assurance that subsection (11) would be redrafted to maintain compliance with the terms of SB 224 introduced by **SEN. LASLOVICH**.

**{Tape: 1; Side: B; Time Counter: 2.0}**

**Opponents' Testimony:**

**Dave Puyer, MT Rural Education Association (MREA)**, said that MREA's concern is the language that a student would have to be able receive full access to the complete range of educational services. He felt that it was onerous language for rural schools, and he was unsure how it would be provided with an effort like the current rural schools, distance learning project. He hoped that **SEN. STORY'S** intent was to allow this type of innovation to the schools and students across the state. MREA was also troubled with the language "unable to attend school due to a medical reason certified by a medical doctor and receiving individualized educational services supervised by the district". He requested that the meaning be clarified.

**Mr. Puyer** said that MREA and MTSBA came together in an innovative effort to bring schools across the state together to affect changes in the delivery of services to all students and respects the boundaries and rights of all schools. Some of the language in SB 359 could be misinterpreted and used in other ways.

**{Tape: 1; Side: B; Time Counter: 8.7}**

**Informational Testimony:**

**Rod Svee, Superintendent of Schools, Billings,** said that the language in SB 359 is written from the accreditation standards, and he was unsure why it was unclear. He felt that OPI did a good job of drafting SB 359 and it addresses the issues that schools have to deal with.

**{Tape: 1; Side: B; Time Counter: 10.4}**

**Questions from Committee Members and Responses:**

**SEN. JEFF MANGAN (D), SD 12, GREAT FALLS,** asked OPI to address the concerns of the MREA. **Ms. Quinlan** understood the concern with the language "full access". The key is that the student be offered full access to schools' range of services. She said that OPI was trying to review issues, for example, where a school district offers a program but the student may be placed in a residential setting. OPI will clarify the language.

**Ms. Quinlan** said that the medical language in SB 359 says nothing about the resident district not being able to serve the child. The child is an enrolled pupil. The first step that has to happen for a district to generate ANB funding is that the pupil be enrolled in that district. If a student is in a hospital, for example, it is possible for the parents to unenroll the student from their resident district and reenroll the student in the district where the hospital is located. The parent would make the decision on how the child is served. It is also possible for the resident district to continue to serve the student by requesting the district where the hospital facility is located to provide the services. If it does, the district that is providing the services would receive the ANB funding.

**SEN. MANGAN** asked if MREA's concern about the medical language was that it was too broad. **Mr. Puyer** said that he does not see the intention of distance learning to be serving as an enhancement for medical centers. There are many children in medical facilities. With the distance learning the MREA is involved in, rural schools should at least have the opportunity to provide those services. If they cannot, there needs to be further dialog. **SEN. MANGAN** asked if MREA's concern was the process of delivering the services. **Mr. Puyer** said yes, and that the resident district of the child needed to be honored and given the opportunity to provide the educational services through distance learning. The language needs to be clarified.

**SEN. DON RYAN (D), SD 10, GREAT FALLS**, asked about the intent of the language "to receive full access". **Ms. Quinlan** said that the school needs to offer students those services that they have within their spectrum of course offerings. Schools may offer four or five different distance learning programs. OPI is not saying that all classes must be offered by distance learning. It is saying that if a student is being served through distance learning at their home, the school cannot prevent the student from taking advantage of the other services.

**SEN. KIM GILLAN (D), SD 24, BILLINGS**, was concerned with the implication of the language "full" because she felt it was too broad of a term. She asked if the word could be deleted. **Ms. Quinlan** said that the language refers to full access to educational services involved in the basic education program.

**SEN. BOB HAWKS (D), SD 33, BOZEMAN**, asked how a student would be credited if for example, there is a situation where a home school student living in district B accesses a class in district A because the class is not offered in district B. **Ms. Quinlan** said that a resident of district B who is being served by district A under a distance learning situation, under SB 224 and SB 359, the student would not generate ANB funding for district A. OPI is trying to prevent school districts from raiding each others pupils. If the student lives in district B and a class is offered by district A that the student wants to take advantage of, district A could approach district B and make some arrangement between the districts. **SEN. HAWKS** asked if the arrangement would guarantee access. **Ms. Quinlan** said that there are no guarantees.

**Closing by Sponsor:**

**SEN. STORY** said the "full access" language could use further clarification, and the medical issue could be handled by the experts. His intent was that if a student could not get to school because the student was confined to a bed, the student had to be enrolled in one district or another. It becomes an enrollment issue. **SEN. STORY** added that he introduced SB 359 for the purpose of dividing the school days into smaller groups, and he would work with all of the stakeholders who have concerns about the bill.

**{Tape: 2; Side: A; Time Counter: 1.5}**

**EXECUTIVE ACTION ON SB 177**

**Connie Erickson, Legislative Services Division**, explained the amendments to SB 177. She also provided a summary of assumptions prepared by **Amy Carlson, OBPP**, explaining the per-ANB

entitlements and basic entitlements for fiscal years 2006 and 2007 for both elementary and high school.

**EXHIBIT**(eds32a07)

***{Tape: 2; Side: A; Time Counter: 4.3}***

**Amy Carlson, OBPP**, provided an overview of a revised draft fiscal note for SB 177.

**EXHIBIT**(eds32a08)

Following a brief discussion, Committee members decided to take a brief recess from Executive Action on SB 177 while staff made copies of the revised proposed amendments.

***{Tape: 2; Side: A; Time Counter: 19.8}***

**EXECUTIVE ACTION ON SJ 2**

**Motion:** SEN. GREGORY BARKUS (R), SD 4, KALISPELL, moved that SJ 2 DO PASS.

**Discussion:**

**SEN. BARKUS** said that SJ 2 was brought on behalf of the Postsecondary Education Policy and Budget Subcommittee (PEPB). SJ 2 is the result of an effort started by the Board of Regents to develop a "Shared Leadership for a Stronger Montana" initiative which tries to formulate a working relationship between the Board and the Legislature.

**Motion:** SEN. MANGAN moved amendment #SJ000201.ace.

**EXHIBIT**(eds32a09)

**SEN. MANGAN** said that recently, there has been a huge emphasis on 2-year colleges and their programs. **Governor Brian Schweitzer** recommended that a scholarship program for these entities be initiated. #SJ000201.ace follows the discussions of "Shared Leadership" regarding the increase in access and affordability to the 2-year systems. The amendment also recognizes three other economic development initiatives not initially identified as priorities by PEPB.

**SEN. BARKUS** urged a resistance to the amendment stating his disappointment in the Governor lining out "Shared Leadership" in his Executive budget. He found it interesting that the Governor

wanted his fingerprints on SJ 2 when he was unwilling to support "Shared Leadership".

**SEN. GILLAN** asked if "Shared Leadership" was a part of the Governor's "Best and Brightest Postsecondary Scholarship Program". Stating that he was uncertain, **SEN. MANGAN** added that it was unfortunate that the proposed initiatives contained less about economic develop and more about postsecondary education and that the issue had become political. He said that the fact remains that "Shared Leadership" will remain and that Montana has a new Governor who has initiated a scholarship program for 2- and 4-year university programs. How it is being funded is another issue. In addition, the Governor's scholarship program does support the goals of "Shared Leadership".

**SEN. STORY** asked if maintenance and construction at 2-year colleges was their priority. **SEN. MANGAN** said no, but that the state should support bond issues related to the construction of postsecondary educational facilities.

*{Tape: 2; Side: B; Time Counter: 1.5}*

**SEN. BARKUS** said that SJ 2 was drafted by an interim committee and it was the words that it wanted.

**SEN. MANGAN** felt that SJ000201.ace was a good fit but that if the issue was going to be political, he would not vote for the amendment or SJ 2.

**Motion/Vote:** **SEN. MANGAN'S** amendment #SJ000201.ace failed on a 3 to 8 roll call vote with **SENATORS GILLAN, HAWKS, and RYAN** voting aye.

**Motion/Vote:** **SEN. MANGAN** moved that SJ 2 BE TABLED. Motion carried 6 to 5 on a roll call vote with **SENATORS BARKUS, BLACK, KITZENBERG, MCGEE, and STORY** voting no.

*{Tape: 2; Side: B; Time Counter: 7.0}*

**EXECUTIVE ACTION ON SB 177 (CONTINUED)**

**Motion:** **SEN. RYAN** moved that SB 177 DO PASS.

**Motion:** **SEN. RYAN** moved amendment #SB017701.ace.

**EXHIBIT**(eds32a10)



**Discussion.**

**Ms. Erickson** said that amendment 8 through 15 reflect the figures for fiscal year 2006 and pages 4, 5, and 6 reflect the figures for fiscal year 2007.

**SEN. RYAN** requested the segregation and removal of amendments #1 and #7 from #SB017701.ace related to the unified and joint board interdistrict agreements.

**Ms. Erickson** said that the codification instruction would also have to be removed.

**Motion/Vote:** **SEN. RYAN'S motion to approve amendment #SB017701.ace with the exclusion of amendments #1 and #7 carried unanimously by voice vote.**

**Motion:** **SEN. RYAN moved that SB 177 DO PASS AS AMENDED.**

**Discussion:**

**SEN. RYAN** said that SB 177 as amended is as close as possible to what **Governor Schweitzer** has allowed under the funding formula.

**SEN. MANGAN** said that he like the idea of the unified and joint school board interdistrict agreements because it allows for flexibility, collaboration, and cooperation between the school districts. He felt it an idea worthy of fulfilling, and he hoped the Committee would resurrect it at some point.

**SEN. STORY** asked about the cost of the ANB averaging in the first year. **Ms. Carlson** said the cost is \$13.9 million, and it is cheaper in the second year.

**SEN. MCGEE** asked where the approximately \$80 million is going to come from. **SEN. RYAN** said that currently the state has some money coming in from different revenue sources. SB 177 sets up a budget authority for school districts based upon their basic entitlements. Anytime basic entitlements increase, state money has to be infused to match the schedules for over BASE. Some money will also come from local taxpayers if they choose to do so.

**Motion/Vote:** **SEN. RYAN'S motion that SB 177 DO PASS AS AMENDED carried on a 10 to 1 roll call vote with SEN. MCGEE voting nay.**

**ADJOURNMENT**

Adjournment: 5:10 P.M.

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SEN. DON RYAN, Chairman

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LOIS O'CONNOR, Secretary

DR/lo

Additional Exhibits:

**EXHIBIT ([eds32aad0.PDF](#))**